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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,768	12/04/2001	Yungrwei Chen	00-08	8455

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EXAMINER	
HOOK, JAMES F	

ART UNIT	PAPER NUMBER
3752	

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applic[illegible](s)
10/004,768	Chen et al.
Examiner	**Art Unit**
James F. Hook	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-20 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-8 and 10-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-16 of U.S. Patent No. 6,338,363. Although the conflicting claims are not identical, they are not patentably distinct

from each other because the language set forth in the '363 patent encompasses that set forth in the instant application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper. The patent to Cooper discloses the recited energy attenuation apparatus for a system conveying liquid comprising a liquid conveying means formed of three chambers 22,22', and the center chamber that is marked as 28, chambers 22 and 22' are seen to not contain a tube and therefore are two chambers that do not contain a tube, and the middle chamber is provided with a tube 30 which can have an open end only or as seen in figure 7 can have holes 32 in the wall of the tube and where the tube end is spaced from the end of the chamber, where such can be made with one, two, or three chambers.

5. Claims 1-3, 6, 7, 13-15, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by van Ruiten (981). The patent to van Ruiten discloses the recited energy attenuation apparatus for a system conveying liquid comprising a liquid conveying means 20' (see figure 3) which is

formed having three chambers formed in conduits 21' at each end of a conduit 61, restrictor 24' is provided in the system, a first tube 36', a second tube 45' are provided in two of the conduits on either side of a chamber formed in conduit 61 which is not provided with a tube, where the tubes have opened ends for transmitting flow into the chambers.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 3, 6-10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper. Cooper discloses all of the recited structure above and it is noted that the springs provided in the first and last chambers are meant to provide attenuation to energy as well but are not tubes. The patent to Cooper discloses all of the recited structure with the exception of providing two tubes in two of the chambers, and disclosing a specific distance the tube end is from the end of the chamber. The fact that Cooper discloses that one can provide an attenuation means in the first and third chambers, and the fact that the tube is also a form of attenuation, it is considered obvious that one skilled in the art could substitute a tube type attenuator for one of the spring attenuators in either the first or last chamber as desired to further control the attenuation to

meet the needs of the user for a particular application as such would only require routine skill in the art and routine experimentation to arrive at optimum values, such would also be true for using routine experimentation to arrive at a optimum distance the tube end should be from the end of the chamber to achieve the best results in attenuation.

8. Claims 2, 4, 5, 11, 12, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper in view of van Ruiten (981). The patent to Cooper discloses all of the recited structure as set forth above including connectors 25 that separate the chambers with the exception of forming the connectors as restrictors. The patent to van Ruiten discloses the structure set forth above including using a restrictor type connector to separate chambers. It would have been obvious to one skilled in the art to modify the connectors in Cooper to be formed with a restriction as suggested by van Ruiten to further attenuate and improve flow characteristics and attenuation characteristics of the system.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Dyer, Fitzhugh, Fritz, van Ruiten (164), Forte, Chen (656 and 841), and Seidel-Peschmann disclosing state of the art attenuators.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.

J. Hook
February 10, 2003

James F. Hook
Primary Examiner
Art Unit 3752